

REMARKS/ARGUMENTS

In the Office action dated December 29, 2005, the Examiner rejected claims 1-6 under 35 U.S.C. § 112, 1st paragraph, because the Examiner does not believe that the Specification is enabling to one of ordinary skill in the art. The Examiner also questions the meaning of a section heading. The Examiner rejected claims 1-16 under 35 U.S.C. § 112, 2d paragraph, relying on a misinterpretation of the language in independent claims 1, 7 and 12, additionally stating that the Examiner was unable adequately to search the prior art because of the indefiniteness of the claim language. Claims 1-4 and 12-14 were rejected under 35 U.S. C. § 102(e) as allegedly being anticipated by U.S. Patent Publication No. 2005/011032 of Airas. Claim 5, 6, 15 and 15 [sic] were rejected under 35 U.S.C. § 103(a) as being unpatentable over '032 in view of U. S. Patent No. 5,974,312 to Hayes *et al.* This rejection has been interpreted by Applicants as applying to claims 5-11.

In the Specification, no changes.

In the Claims, claims 1, 3, 7, 9, and 12 are amended.

The Invention

The invention is a mobile communication devices which incorporates, in addition to the usual mobile communication device hardware/software, a CCD camera, and a communication link therebetween. The invention provides a method of downloading data to a mobile communication device (MCD), *e.g.*, cellular phone, PDA, *etc.*, also referred to as a portable communication device (PCD), wherein the mobile communication device is equipped with an optical data capture mechanism, *e.g.*, a CCD camera, and also provides an algorithm to interpret the data. A control process controls both the CCD camera and the interpretation

algorithm, which takes data presented to the MCD in computer readable form, *e.g.*, as a bar code or any other computer readable representation. The control process may interact with the PCD's user interface to take input from, or provide feedback to, the user regarding the current state of the CCD and the interpretation algorithm, which algorithm is operable to decide whether the volume of data gathered by the CCD can be stored in a single file in the MCD memory, or whether more than one file will be required, and is also operable to convert the data into a graphical representation. The control process also may respond to information embedded in the optical data.

The Applied Art

U.S. Patent Publication No. 2005/0119032-A1 of Airas describes a MCD for capturing and displaying graphical images.

U. S. Patent No. 5,974,312 to Hayes, Jr. *et al.*, describes a technique for reprogramming computer-based devices.

The Claims

Responding first to the rejection of claims 1-6 under 35 U.S.C. § 112, 1st paragraph, it is not clear what the rejection is based on, as the rejection, beginning with the sentence which reads: "The Specification, page 4, lines 15-21...." runs on as a single sentence to the end of the paragraph, and includes some language about the method of the invention not being enabling and as what the device is and how the step of the method of the invention is performed. However, this sentence is not in any recognizable form of Standard American English (SAE), and as such is not understandable. 37 C.F.R. § 1.52(b)(1)(ii) requires that a patent application be written in English, and it is reasonable to assume that correspondence from the U. S. Patent and

Trademark Office is received by an Applicant in English. As best understood, if the Examiner objects to the claims not reciting what instrumentality performs the steps of the method of the invention, that objection is rendered moot by the amendment to the claims herein, which now describe where the steps of the method of the invention take place. One of ordinary skill in the art, having read the Specification as filed, would understand that the data is provided in computer readable form by an instrumentality, which need not be defined, is captured by the CCD in the MCD and is either in binary, or other computer readable, form at that point, or converted to binary, or other computer readable form, which is then used to a graphic representation, the data then being stored in the MCD. Accordingly, the 35 U.S.C. § 112, first paragraph rejection of claims 1-6 should be withdrawn.

As to the meaning of the section heading "Field of the Invention," the Examiner is directed to 37 C.F.R. § 1.77 and MPEP § 601, wherein "Field of the Invention" is defined as a portion of the Background of the Invention, and is provided to assist the U. S. Patent and Trademark Office in initial classification of the subject matter of the invention. Likewise, this rejection under 35 U.S.C. § 112, 1st paragraph should be withdrawn.

Turning to the 35 U.S.C. § 112, 2d paragraph rejection of claims 1-16, it is believed that the amendments to claims 1, 7 and 12 have resolved this issue. Applicants strongly assert that the meaning of these claims is clear as filed, and has amended to claims solely as an aid to the Examiner in an attempt to advance prosecution of this Application.

Claim 1 has been amended to clarify where the steps of the method of the invention take place. '032 describes a technique for capturing and displaying graphics on a MCD, however, several elements of claim 1 are missing from the teaching of '032. Specifically, there is

no teaching that '032 has any mechanism for determining whether the data can be stored in a single graphics file. In fact, '032 clearly teaches away from the claim:

[0076] gallery communicator, for sending OTA a selected gallery and for receiving a transmitted gallery (and, optionally, automatically recognizing a received object as a gallery), and for storing a received gallery in a memory location in the receiving device (*and for asking the user which gallery to replace if insufficient memory is available to store the receive gallery without writing over an existing gallery*), and also including a formatter for converting a clip-art gallery from the format in which the clip-art galleries are stored in the gallery folder to any of a number of other formats (such as e.g. from an 72.times.28 GMS picture format to an 86.times.52 screen saver format or to an 72.times.28 screen saver format, or to other formats in use).
(*Emphasis Added*)

'032 clearly teaches away from determining whether the data can be stored in a single file - the discussion refers to the entire gallery content, which by its very nature, inherently has more than a single file, however, the decision is not whether data may be stored in a single file, but rather whether all of the files in a gallery overwrite files which are already stored in a gallery in memory. 0073, cited by the Examiner for this proposition simply does not address the issue.

Further, the data gathered by '032 is already in graphical form, thus there is no need to convert to a graphical representation, and the applied reference does not teach nor suggest such a conversion. '032 contains a graphical editor, which is a different beast than Applicants' "converting" step:

[0073] The "Displayed optical messages" submenu item gives access to a displayed optical messages related submenu that comprises the submenu items, "Create message" and "Sent messages". The "Create messages" item gives access to a graphic editor application 72 that allows the user to select the symbols to be displayed. The editor application 72 allows the entry of regular letters and numbers to form words and sentences but is not directed

towards the creation of longer text. The editor application comprises however a special symbol selecting feature that assist the user in selecting symbols such as smileys, hearts emergency signals, pictograms, barcodes and any other graphic symbols that a user may wish to display as an optical message. The application contains a symbol library with standardized pictogram lexicons which the user may select symbols from. The image library/gallery can be downloaded from a server such as the Club Nokia.RTM. server. The graphical editor application comprises:

Claim 1 is clearly allowable over the applied art.

Claim 2 requires that the data, if not storable in a single graphics file, be stored in plural graphics files. Again, the Examiner applied '032, 0073, quoted above, which has no teaching or suggesting of using multiple files to store a single graphic representation - it clearly describes storage of multiple file in a gallery, wherein each file contains a single graphic image, and does not teach nor suggest splitting a graphic representation between multiple files. Claim 2 is allowable over the applied art.

Claim 3 is allowable with its allowable parent claim.

Claim 4 stands rejected under '032, 0079, which allegedly teaches reading the graphic representation until capture is successful.

[0079] The phone 1 comprises an optical character recognition application (OCR) 73 (FIG. 8a) that allows it to recognize characters in text and symbols captured by the camera 35 such as barcode displayed on the large light emitting matrix 14 of other mobile phones.

Applicants suggest that not even the broadest, most creative and imaginative reading of this paragraph teaches or suggests the limitations of claim 4. The language of 0079 is quite equivocal: "...OCR...allows it to recognize...." There is nothing to suggest a QC protocol which recognizes a failed capture and causes the MCD to repeat the acquisition process until a graphic

representation is successfully captures. Claim 4 is clearly allowable over the applied art.

Claim 5 is allowable because the combination of references applied by the Examiner is not correct: '312 teaches away from any combination with '032 - col. 4, lines 19-23 of '312 require that data transfer be accomplished by conventional hardwire, RF or IR communication. While '312 describes repair of corrupted computer devices from a central facility, it does not teach nor suggest using a graphical capture and conversion protocol as taught by Applicants. GUIs and CCD were certainly known to the Patentees of '312 when the application was filed in 1997, and yet, they did not acknowledge the use of such tools in their application, for reasons known but to the Patentees. Accordingly, the Examiner's combination fails to teach or suggest the limitations of claim 5, which is allowable over the applied art.

Claim 6 is allowable for the reasons set forth in connection with claim 5 - there is no mention of a PRL in either applied reference - and PRLs were certainly know to the inventors of both references.

Claim 7 has been amended along the lines of claim 1 and is specific to PRL data. Claim 1 is allowable for the reasons set forth in connection with claims 1 and 6.

Claims 8, 9, 10 and 11 are allowable for the reasons set forth in connection with claims 2, 3, 4 and 5, respectively.

Claim 12 is a combination of claims 1 and 3, and has been amended along the lines of claim 1. Claim 12 is allowable for the reasons set forth in connection with claims 1 and 3.

Claims 13, 14, 15 and 16 are allowable for the reasons set forth in connection with claims 2, 4, 5 and 6, respectively.

In light of the foregoing amendment and remarks, the Examiner is respectfully

requested to reconsider the rejections and objections stated in the Office action, and pass the application to allowance. If the Examiner has any questions regarding the amendment or remarks, the Examiner is invited to contact the undersigned.

Provisional Request for Extension of time in Which to Respond

Should this response be deemed to be untimely, Applicants hereby request an extension of time under 37 C.F.R. § 1.136. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any over-payment to Account No. 22-0258.

Customer Number

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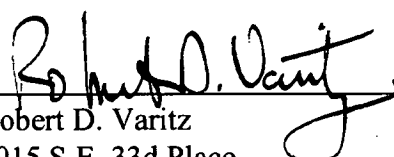
Respectfully Submitted,

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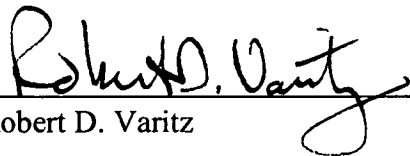
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I hereby certify that the attached RESPONSE TO OFFICE ACTION UNDER 37 C.F.R. § 1.111 is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to:

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450


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